Probe of San Quentin by Blacks Barred

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From News Dispatches

SAN FRANCISCO, Aug. 24—In a tumultuous court hearing, two judges refused demands today by the two surviving Soledad Brothers to order black legislators admitted into San Quentin Prison "to see what is happening" at the scene of Saturday's escape try in which six men died.

George Jackson, 29, the third of the Soledad Brothers, was shot to death in the break attempt after three white guards and two white prisoners had been killed in the prison's maximum security adjustment Center.

"If you don't act in some manner to get these men (black legislators) and black community leaders into the prison, you can blow this country so wide apart it will never be recognized," John Thorne, Jackson's attorney, told Superior Court Judge Carl Allen.

"I don't deem that to be my function," Allen responded.

Bare-Chested in Court

At that point, John Clutchette, 28, and Fleeta Drumgo, 26, the surviving Soledad Brothers, sat bare-chested in court after stripping off their shirts.

They had limped into the courtroom in khaki shirts and trousers and closely-clipped hair and their attorneys had charged both had been beaten up in the prison Adjustment Center.

"There are broken arms and busted heads out there," shouted Clutchette, who is lean, tall and strong-muscled.

"They said I'd be dead in three days," declared Drumgo, thin and short with powerful shoulder muscles.

Allen is a San Francisco judge assigned temporarily to hear pretrial motions in the murder case charging that Jackson, Clutchette and Drumgo killed a white guard at Soledad Prison in January, 1970.

Attempts Challenge

Amidst defense charges of brutality at San Quentin and demands for outside investigation, Allen refused to hold Associate Warden James Park in contempt for failing to produce the two prisoners in court at a scheduled hearing Monday.

Floyd Silliman of Salinas, attorney for Clutchette, made a peremptory challenge to disqualify Judge Allen as "biased and prejudiced."

Allen refused, declaring the one peremptory challenge already had been exercised against Judge Walter Carpeneti, fifth judge disqualified in the case.

Allen rejected a defense claim that each accused had the right to a peremptory challenge.

Thorne said a petition was being filed in Federal District Court asking removal of the case to federal court.

Earlier, Allen said Gov. Ronald Reagan and Raymond K. Procunier, state director of corrections, had ordered investigations at the prison.

Protest shouts rose from behind the bulletproof glass shield dividing the jammed spectator section from the bench and jury box area.

"You think they can investigate themselves," one black spectator yelled.

Judge Disqualified

At the hearing's outset Superior Court Judge Stanley R. Evans of Santa Clara County disqualified the sixth judge assigned to conduct the trial.

He was Judge Frank Shaw of San Francisco, who served as a deputy district attorney and prosecutor until December 1969.

Evans, assigned by California Chief Justice Donald Wright to rule on the issue, said state law bars a judge from hearing a criminal case initiated less than two years after serving as a prosecutor. The Soledad Brothers were indicted in Februaary 1970.

Silliman and Richard Silver of Carmel, Drumgo's attorney, invited Judge Evnas to have Clutchette and Drumgo strip down in his chambers to show what they said were the beating cuts and bruises the prisoners had suffered.

Evans said he would act only on the disqualification motion against Judge Shaw.

He refused to order San Quentin officials to allow any black legislators or community leaders to visit the prison.

Police, meanwhile, continued their search for attorney Stephen Mitchell Bingham, grandson of the late Connecticut Gov. and U.S. Senator Hiram Bingham, for questioning as the visitor who saw Jackson a few minutes before the convict pulled a gun.